

July 3, 2019

Ms. Katherine Kyle Mundy, RLA
A. Morton Thomas & Associates, Inc.
800 King Farm Boulevard, 4th Floor
Rockville, Maryland 20580

Re: Community College of Baltimore County
7200 Sollers Point Road
Dundalk, Maryland 21222
Forest Conservation Special Variance
Tracking # 07-19-3022

Dear Ms. Mundy:

A request for a variance from the Baltimore County Code Article 33, Title 6, Forest Conservation, was received by the Baltimore County Department of Environmental Protection and Sustainability (EPS) on June 11, 2019. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 0.7-acre (30,264 sf) limit of disturbance (LOD) rather than the entire 49.8-acre property. The property, known as the Community College of Baltimore County, Dundalk campus, was built in 1972, and is located in the Dundalk section of Baltimore County. The project proposes to grade 0.7-acre in order to construct a pre-engineered building on an existing parking lot and lawn area. The building will be installed and connected to utilities. No forest is present within the LOD. Specimen trees are located adjacent to the LOD, but will not be impacted by the project. No wetlands, streams or their buffers are associated with the proposed project.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to make improvements and upgrades to an existing school that has served the community since 1972. These improvements are necessary to maintain the functionality of ongoing site operations. However, full application of the law to the entire property would not deprive the applicant of beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. Making the proposed improvements is due to unique circumstances and requirements associated with the subject property and its operation, rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of Dundalk High School to its southwest, single-family homes and townhomes. Only approximately 0.7-acre of the 49.8 acre property would be disturbed for the necessary improvements associated with a school that has been in the neighborhood for many years. The use and appearance of the site will be maintained. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that there are no wetlands, streams, forest buffers or floodplains within the project area. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any related actions on the property prior to requesting this variance. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the afforestation obligation based on the limit of disturbance for necessary facilities and upgrades at an existing college campus would be consistent with the spirit and intent of the Forest

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Conservation Law. This is especially true given that no impacts to forest or water quality would result from the proposed redevelopment. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. The following note must appear on all future plans for this project: "A Forest Conservation Special Variance was granted by the Baltimore County Department of Environmental Protection and Sustainability to apply forest conservation regulations to the 0.7-acre limit of disturbance rather than the entire 49.8-acre site. The variance was conditionally approved in order to minimize water quality impacts."
2. A simplified forest stand delineation, forest conservation plan and forest conservation worksheet are required prior to the issuance of any permit.
3. The afforestation requirement of 0.1-acre must be satisfied by the payment of a fee-in-lieu of planting in the amount of \$0.55 per square foot (\$2,395.80) prior to the issuance of any permit. A note reflecting this approval condition must appear on all future plans for this project.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request. Please have the property owner (s) sign the statement below and return a signed copy of this letter to this Department prior to building permit issuance.

If you have any questions regarding this correspondence, please call Thomas Panzarella at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

DVL/tcp